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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,249	08/20/2001	Bernhard Goebel	GER8700	5525

7590 01/25/2005

The Black & Decker Corporation
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EXAMINER

SHAW, CLIFFORD C

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,249

Applicant(s)

GOEBEL, BERNHARD

Examiner

Clifford C Shaw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

1.) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2.) Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (4,027,136). Figure 1 and the discussion in columns 2 and 3 of the patent to Taylor (4,027,136) disclose a stud welding device with the features claimed, including: a hollow tubular stud holder 18 that allows stud B to be pushed therethrough by the agency of element 17 having a pointed region in the vicinity of element 30; an insulating spacing means 20 arranged annularly around 18 and fixed thereto. Figure 1 shows that the tip of 18 is always behind the rim of the spacing means. In regard to the intended use of the device “for preventing an electrical contact ...”, element 20 in Taylor (4,027,136) will inherently prevent electrical contact between element 30 and a workpiece.

3.) Applicant's arguments filed 11/29/2004 have been fully considered but they are not persuasive. Applicant argues that Taylor (4,027,136) does not address the problem of preventing electrical contact between a pointed region of a collet and a workpiece. Applicant relies on the incorporation of Ettinger (3,582,602) into Taylor (4,027,136) to support his position.

Applicant's arguments are not persuasive. Figure 1 of Taylor (4,027,136) clearly shows the configuration claimed by applicant. The patent to Taylor (4,027,136) states “the arc shield 20, as described in the aforementioned U.S. patent no. 3,582,602, is an insulative member which may

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be properly termed a panel locator and an arc shield". The patent to Taylor (4,027,136) further states that "... reference may be had to that patent [3,582,602] for a better understanding of the control arrangement and welding process". Nowhere does Taylor (4,027,136) indicate that the system shown in his figure 1 is identical to the system of Ettinger (3,582,602). Indeed, figures 1, 2, and 3 of Ettinger (3,582,602) show a different front-end structure of the welding gun than that of Taylor (4,027,136). In the discussion of how his system works at column 2, line 66 through column 3, line 6, Taylor (4,027,136) makes no mention of movement between shield 20 and collet 18, and there is no reason to suppose such movement takes place as it does in the front end of the gun of Ettinger (3,582,602), given the different disclosed structures of the two guns.

4.) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

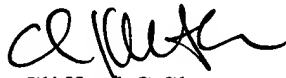
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Clifford C Shaw at telephone number 571-272-1182. The examiner can normally be reached on Monday through Friday of the first week of the pay period and on Tuesday through Friday of the second week of the pay period.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas G. Dunn, can be reached at 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Clifford C Shaw
Primary Examiner
Art Unit 1725

January 24, 2005